S.B. Civil Writ Pet. NO.1694/93
Mahant Ram Narain Vs. State

Date of order : 26.04.2006

HON'BLE MR. GOVIND MATHUR, J.

Mr. Sudhir Sharma for the petitioner.
Mr. B.L. Tiwari, Dy. G.A.
Mr. Ravi Bhansali for the respondent.

while giving challenge to the land acquisition proceedings initiated under the notification dated 30.11.1991, the only contention pressed into service by the learned counsel for the petitioner is that the Additional Collector (City), Udaipur was having no authority to act as a "Collector" under Sec. 5-A of the Land Acquisition Act, 1894 (herein after referred to as "the Act of 1894"), therefore, the Additional Collector, erroneously heard the objections and submitted a report dated 30.11.1992 to the State Govt. under Sec. 5-A of the Act of 1894 and that makes the entire proceeding void.

According to the learned counsel for the petitioner, the Addl. Collector cannot be treated as "Collector" as defined under Clause (c) of Sec. 3 of the Act of 1894 which reads as under:

> "the expression "Collector" means the Collector of a district, and includes a Deputy

> Commissioner and any officer specially appointed by the [appropriate Government] to perform the functions of a Collector under this Act."

Shri B.L. Tiwari, learned Deputy Government Advocate on the other hand contended that the issue raised by the learned counsel for the petitioner is no more res integra being set at rest by this Court in the case of Chakhi Bai and Anr. etc. Vs. State of Rajasthan reported in 1998 DNJ [Raj.] 609. In the case of Chakhi Bai (Supra) this court held as under:

> "8. In the scheme of the Act of 1894 the Collector has been empowered to hold the Acquisition proceedings. Any person other than the Collector can also perform functions of the Collector under the Act if he is specially appointed by the appropriate Government.
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> 9.`Collector' has also been defined in Sec. 5 (7) of the Rajasthan Tenancy Act which is to the following effect:-
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> "(7) Collector shall mean a Collector or an Additional Collector appointed under the Rajasthan Territorial Divisions Ordinance, 1949, or under any other law for the time being in force".
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> 10. Thus according to the definition given in the Rajasthan Tenancy Act the Additional Collector

> is also included in the definition of Collector. It was not disputed that the additional Collector who held the proceedings was appointed under the Rajasthan Territorial Divisions Ordinance, 1949. The word "Collector" in the Land Acquisition Act, 1894 cannot be understood to mean only the person who holds the post of Collector. Any person appointed to perform the functions of the Collector, is also included in the definition. The Additional Collector is certainly such a person who performs the function of the Collector. In my opinion, the Addl. Collector should be held to be the Collector for the purposes of Sec. 3(c) of the Land Acquisition Act."

In view of the judgment of this Court in the case of Chakhi Bai (Supra), I do not find any merit in the contention raised by the learned counsel for the petitioner that the Additional Collector is not a "Collector" as defined under clause (c) of Sec. 3 of the Act of 1894. No other ground is pressed in service to substantiate the claim made in the writ petition.

In view of the whatever discussed above, the writ petition stands dismissed with no order to cost.

(GOVIND MATHUR), J.

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